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In re:
MDE CAPITAL and JAMES MASON,
Respondents.

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1 NOW, THEREFORE, **IT IS HEREBY ORDERED** that, pursuant to NRS 645B.670 and
2 NRS 645B.690, Respondents shall immediately **CEASE AND DESIST** all unlicensed mortgage
3 broker, banker, or agent activity in the State of Nevada. In addition, Respondents will be subject
4 to the administrative fines, fees and/or costs as set forth in the original Order attached hereto as
5 Exhibit "1".

6 **IT IS FURTHER ORDERED** that the sum of said administrative fines, fees and/or costs
7 be paid in full within **thirty (30) days** of entry of the instant Order;

8 Dated this 15th day of June, 2009.

9
10 **STATE OF NEVADA**

11 **DEPARTMENT OF BUSINESS AND INDUSTRY**

12 **DIVISION OF MORTGAGE LENDING**

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16 By: Joseph L. Waltuch
17 **JOSEPH L. WALTUCH, COMMISSIONER**

EXHIBIT “1”

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STATE OF NEVADA
DEPARTMENT OF BUSINESS AND INDUSTRY
DIVISION OF MORTGAGE LENDING

In re:

MDE Capital and James Mason,
Respondents.

**ORDER TO CEASE AND DESIST, NOTICE OF INTENT TO IMPOSE
FINES AND NOTICE OF RIGHT TO REQUEST HEARING**

The licensing and regulation of mortgage bankers in the State of Nevada is governed by Chapter 645E of the Nevada Revised Statutes ("NRS") and Chapter 645E of the Nevada Administrative Code ("NAC"). The licensing and regulation of mortgage brokers and mortgage agents in the State of Nevada is governed by Chapter 645B of NRS and Chapter 645B of NAC. The State of Nevada, Department of Business and Industry, Division of Mortgage Lending ("the Division") has the general duty to exercise supervision and control over mortgage bankers, mortgage brokers and mortgage agents, as well as mortgage banker, mortgage broker and mortgage agent activity. See, NRS 645E.300, NRS 645E.620, NRS 645B.060, NRS 645B.670 and NRS 645B.690. Pursuant to that authority, the Division makes the following Factual Allegations, Violations of Law, and Order, as follows:

FACTUAL ALLEGATIONS

1. Based upon information and belief, Respondent MDE Capital is a limited liability company with an office located at 1985 Highway 34, Building A, No. A2, Wall, New Jersey 07719.
2. MDE Capital has never been issued a mortgage banker or mortgage broker license by the Division pursuant to Chapter 645E or Chapter 645B of NRS.
3. Based upon information and belief, from January 2004 to the present, Respondent

1 James Mason ("Mason") is, and has been, the president of MDE Capital and, at relevant
2 times herein mentioned, acted as a mortgage agent affiliated with, or employed by, MDE
3 Capital.

4 4. Mason has never been issued a mortgage banker, mortgage broker or mortgage
5 agent license by the Division pursuant to Chapter 645E or Chapter 645B of NRS.

6 5. The Division has never licensed MDE Capital to conduct mortgage banking or
7 mortgage broker activity in the State of Nevada out of its office located at 3 Bradford Terrace,
8 Middletown, New Jersey 07748 (Unlicensed New Jersey Office").

9 6. Based upon information and belief, at relevant times herein mentioned, Donald
10 Ross ("Ross") was a resident of Las Vegas, Nevada.

11 7. Based upon information and belief, at relevant times herein mentioned, Randolph
12 Wetcher ("Wetcher") and Dominic Alleva ("Alleva") were the owners of certain real property
13 located at 7178 Cloud View Circle, Las Vegas, Nevada 89119 ("the Property").

14 8. On approximately January 3, 2008, the Division received a written complaint ("Ross
15 Complaint") from Ross concerning MDE Capital and Mason, alleging, among other things,
16 that:

17 a. A real estate agent whom Ross had contacted to purchase a house
18 suggested that Ross contact MDE Capital for a loan;

19 b. The real estate agent informed Ross that MDE Capital was licensed to do
20 business in Las Vegas;

21 c. In an e-mail on October 19, 2007, Mason instructed Ross to send a check in
22 the amount of 1% which the lender required upfront instead of at closing in order to lock a
23 rate and draw loan documents;

24 d. Pursuant to Mason's instruction, Ross made out a check payable to MDE
25 Capital in the amount of \$1,833.00;

1 e. In late November 2007, Ross' application for a loan was denied and Ross left
2 Mason a voice mail message reminding him to return his money; and

3 f. In an e-mail on December 10, 2007, Mason informed Ross that the subject
4 refund had been processed and Ross would receive it by the following week.

5 9. In his written response to the Ross Complaint on January 29, 2008, Mason stated
6 that "(a)ll monies have been returned from the bank to Mr. Donald Ross." Further, Mason
7 stated that "MDE Capital does NOT solicit mortgages in Nevada. MDE Capital is a consulting
8 and real estate company...."

9 10. On approximately January 16, 2008, the Division received a written complaint from
10 Wetcher and Alleva ("Wetcher/Alleva Complaint") concerning MDE Capital and Mason,
11 alleging, among other things, that:
12

13 a. In mid-October 2007, a licensed real estate agent in Las Vegas referred
14 Wetcher and Alleva to Mason to refinance the Property;

15 b. The real estate agent indicated to Wetcher and Alleva that Mason would be
16 able to "take care" of them even though Mason was conducting all business from New Jersey;
17

18 c. After reviewing Wetcher's and Alleva's current mortgage, Mason said that he
19 would be able to refinance the Property, to a lower interest rate, and it would save Wetcher
20 and Alleva a considerable amount on their monthly payment;

21 d. At the commencement of the refinance process, Mason told Wetcher and
22 Alleva that he required a 1% deposit check to lock in the loan while the application was being
23 processed and that the deposit money would be used for closing costs;

24 e. On October 18, 2007, pursuant to Mason's request, Wetcher and Alleva sent
25 a \$3,150.00 check payable to MDE Capital in New Jersey and on October 25, 2007, Mason
26 cashed the check;
27

28 f. In December 2007, Mason indicated to Wetcher and Alleva that he could not

1 close the loan and some bank had their deposit money, but if he did get their money back, he
2 would attach a \$500.00 processing fee; and

3 g. After Wetcher and Alleva repeatedly asked Mason for their deposit money
4 back, at the end of December 2007, Mason said that the bank sent a check to him, but
5 because the check was made payable to him, Mason had to deposit the check into his
6 account and would send Wetcher and Alleva their deposit minus \$500.00 that the bank was
7 withholding for an audit.

8 11. Pursuant to NRS 645E.300 and NRS 645B.060, the Division is charged with
9 conducting such investigations as may be necessary to determine whether any person has
10 violated any provision of Chapter 645E or Chapter 645B of NRS, a regulation adopted
11 pursuant thereto or an order of the Commissioner. See, NRS 645E.300(2)(c) and NRS
12 645B.060(2)(c).
13

14 12. Pursuant to NRS 645E.300 and NRS 645B.060, the Division is further charged
15 with conducting "...such other investigations, periodic or special audits, investigations and
16 hearings as may be necessary for the efficient administration of the laws of this State..."
17 regarding mortgage bankers, mortgage brokers and mortgage agents. See, NRS
18 645E.300(2)(e) and NRS 645B.060(2)(e).
19

20 13. Pursuant to NRS 645E.620 and NRS 645B.620, whether or not a complaint has
21 been filed, the Division may investigate a mortgage banker, mortgage broker, mortgage agent
22 or other person if, for any reason, it appears that the mortgage banker, mortgage broker,
23 mortgage agent or other person is conducting business in violation of any provision of
24 Chapter 645E or Chapter 645B of NRS, a regulation adopted pursuant thereto or an order of
25 the Commissioner; the person is offering or providing any of the services of a mortgage
26 banker, mortgage broker or mortgage agent or otherwise engaging in, carrying on or holding
27 himself out as engaging in or carrying on the business of a mortgage banker, mortgage
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1 broker or mortgage agent without being licensed or exempt from licensing pursuant to the
2 provisions of Chapter 645E or Chapter 645B of NRS; or the person is violating any other
3 provision of Chapter 645E or Chapter 645B of NRS, a regulation adopted pursuant thereto or
4 an order of the Commissioner. See, NRS 645E.620(1)(a), (b), (c) and NRS 645B.620(1)(a),
5 (b), (c).

6 14. Pursuant to NRS 645E.900 and NRS 645B.900, unless a person is exempt from
7 Chapter 645E or Chapter 645B of NRS and complies with exemption requirements, it is
8 unlawful for any person to offer or provide any of the services of a mortgage banker,
9 mortgage broker or mortgage agent or otherwise to engage in, carry on or hold himself out as
10 engaging in or carrying on the business of a mortgage banker, mortgage broker or mortgage
11 agent without first obtaining a license as a mortgage banker, mortgage broker or mortgage
12 agent pursuant to Chapter 645E or Chapter 645B of NRS.

14 15. After receiving the Ross Complaint and the Wetcher/Alleva Complaint regarding
15 MDE Capital and Mason, the Division conducted an investigation of the allegations in
16 question. This investigation revealed, among other things, that:

17 a. MDE Capital has never been licensed by the Division to conduct mortgage
18 banker or mortgage broker activity in the State of Nevada pursuant to Chapter 645E or
19 Chapter 645B of NRS;
20

21 b. Mason has never been licensed by the Division to conduct mortgage banker,
22 mortgage broker or mortgage agent activity in the State of Nevada pursuant to Chapter 645E
23 or Chapter 645B of NRS;

24 c. From approximately October 2007 through mid-January 2008, MDE Capital,
25 through Mason, offered or provided services of a mortgage banker, mortgage broker or
26 mortgage agent in the State of Nevada from MDE Capital's Unlicensed New Jersey Office,
27 including reviewing loan documents, discussing loan terms and loan products, requiring and
28

1 receiving rate lock fees upfront and locking rates;

2 d. At the time of offering or providing the above-referenced services of a
3 mortgage banker, mortgage broker or mortgage agent, MDE Capital and Mason were neither
4 licensed by the Division as a mortgage banker, mortgage broker or mortgage agent nor
5 exempt from licensing pursuant to the provisions of Chapter 645E or Chapter 645B of NRS;

6 e. MDE Capital returned Ross' deposit money after the Ross Complaint was
7 received by the Division; and

8 f. On February 28, 2008, Alleva confirmed to the Division that he had received
9 his deposit money back from MDE Capital/Mason.
10

11 16. Pursuant to NAC 645E.510 and NAC 645B.340, if a person engages in an activity
12 in violation of the provisions of Chapter 645E of NAC, Chapter 645E of NRS, Chapter 645B of
13 NAC or Chapter 645B of NRS, the Commissioner may issue an order to the person directing
14 the person to cease and desist from engaging in the activity. See, NAC 645E.510(1) and NAC
15 645B.340(1).

16 17. Pursuant to NRS 645E.670 and NRS 645B.670, for each violation committed by
17 an applicant, whether or not he is issued a license, the Commissioner may impose an
18 administrative fine of not more than \$10,000 if he has violated any provision of Chapter 645E
19 or Chapter 645B of NRS, a regulation adopted pursuant thereto or an order of the
20 Commissioner. See, NRS 645E.670(1)(c) and NRS 645B.670(1)(c).
21

22 VIOLATIONS OF LAW

23 After investigating this matter, it has been determined that:

24 a. From approximately October 2007 to mid-January 2008, MDE Capital
25 offered or provided services of a mortgage banker or mortgage broker out of its Unlicensed
26 New Jersey Office and otherwise engaged in, carried on or held itself out as engaging in or
27 carrying on the business of a mortgage banker or mortgage broker without first obtaining a
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1 mortgage banker or mortgage broker license, pursuant to Chapter 645E or Chapter 645B of
2 NRS, in violation of NRS 645E.900 or NRS 645B.900;

3 b. From approximately October 2007 to mid-January 2008, Mason offered or
4 provided services of a mortgage banker, mortgage broker or mortgage agent out of MDE
5 Capital's Unlicensed New Jersey Office and otherwise engaged in, carried on or held himself
6 out as engaging in or carrying on the business of a mortgage banker, mortgage broker or
7 mortgage agent without first obtaining a mortgage banker, mortgage broker or mortgage
8 agent license, pursuant to Chapter 645E or Chapter 645B of NRS, in violation of NRS
9 645E.900 or NRS 645B.900; and
10

11 c. MDE Capital and Mason violated provisions of Chapter 645E or Chapter
12 645B of NRS and regulations adopted pursuant thereto (including NRS 645E.900 or NRS
13 645B.900).
14

15 ORDER

16 **NOW, THEREFORE, THE COMMISSIONER OF THE DIVISION HEREBY ORDERS,**
17 pursuant to NRS 622.080 and NAC 645E.510 or NAC 645B.340, after having determined that
18 MDE Capital and Mason offered or provided services of a mortgage banker, mortgage broker
19 or mortgage agent for which they had not received a license or a certificate of exemption out
20 of MDE Capital's Unlicensed New Jersey Office, in violation of Chapter 645E or Chapter 645B
21 of NRS, that **MDE CAPITAL AND MASON IMMEDIATELY CEASE AND DESIST** from the
22 following activities:

23 1. Offering or providing any of the services of a mortgage banker, mortgage broker or
24 mortgage agent for which they have not received a license or a certificate of exemption from
25 the Division, or otherwise engaging in, carrying on or holding itself/himself out as engaging in
26 or carrying on the business of a mortgage banker, mortgage broker or mortgage agent out of
27 an office which has not been licensed by the Division;
28

1 2. Advertising for and/or soliciting mortgage banker, mortgage broker or mortgage
2 agent business without having first received a license or a certificate of exemption from the
3 Division; and

4 3. Advertising for and/or soliciting mortgage banker, mortgage broker or mortgage
5 agent business out of an office which has not been licensed by the Division.

6 **IT IS FURTHER ORDERED**, pursuant to NAC 645E.510(4) or NAC 645B.340(4), that
7 upon filing a verified petition with the Division within **thirty (30) days** of receipt of this Order to
8 Cease and Desist, MDE Capital and/or Mason shall be entitled to a hearing with regard to the
9 contents of this Order to Cease and Desist. MDE Capital and/or Mason is/are advised,
10 however, that the provisions of this Order to Cease and Desist are effective immediately upon
11 MDE Capital and/or Mason being served therewith, whether or not MDE Capital and/or Mason
12 request(s) a hearing.
13

14 **NOTICE TO MDE CAPITAL AND MASON:** If you request a hearing, you are
15 specifically informed that you have the right to appear and be heard in your defense, either
16 personally or through your counsel of choice at your own expense. At the hearing, if one is
17 timely requested, the Division will call witnesses and present evidence against you. You have
18 the right to respond and to present relevant evidence and argument on all issues involved.
19 You have the right to call and examine witnesses, introduce exhibits and cross-examine
20 opposing witnesses on any matter relevant to the issues involved.
21

22 If the Division prevails at any hearing, it may request that attorney's fees and costs be
23 awarded pursuant to NRS 622.400.

24 **IT IS FURTHER ORDERED**, pursuant to NRS 645E.750 or NRS 645B.750, that upon
25 written application to the Division within **twenty (20) days** of the date of this Order, MDE
26 Capital and/or Mason shall be entitled to a hearing with regards to the contents of this Order
27 referenced below. At that hearing the Division will seek to:
28

1 1. Impose an administrative fine against MDE Capital and Mason, each in the amount
2 of Ten Thousand Dollars and No Cents (\$10,000.00), payable to the Division on account of
3 MDE Capital's and Mason's multiple violations of Chapter 645E or Chapter 645B of NRS, the
4 Division's investigative costs in the amount of Four Hundred Eighty Dollars and No Cents
5 (\$480.00) as well as the Division's attorney's fees, if any, incurred herein, each to be proven
6 at the hearing;

7 2. Require MDE Capital's payment, in full, to the Division of the administrative fine
8 against MDE Capital in the amount of Ten Thousand Dollars and No Cents (\$10,000.00)
9 within **thirty (30) days** of entry of the Final Order;

10 3. Require Mason's payment, in full, to the Division of the administrative fine against
11 Mason in the amount of Ten Thousand Dollars and No Cents (\$10,000.00) within **thirty (30)**
12 **days** of entry of the Final Order;

13 4. Require payment, in full, to the Division of the Division's investigative costs as well
14 as the Division's attorney's fees, if any, by MDE Capital and/or Mason, who shall be jointly
15 and severally liable, within **thirty (30) days** of entry of the Final Order.

16 Should MDE Capital and/or Mason not request a hearing within **twenty (20) days** of
17 the date of this Order, the Division will enter a Final Order in this matter against MDE Capital
18 and Mason, as required by NRS 645E.750(2) or NRS 645B.750(2).

19 Dated this ¹⁵ day of May, 2009.

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23 STATE OF NEVADA
24 DEPARTMENT OF BUSINESS AND INDUSTRY
25 DIVISION OF MORTGAGE LENDING

26 By: Joseph L. Waltuch
27 JOSEPH L. WALTUCH, COMMISSIONER
28

CERTIFICATE OF SERVICE

I certify that I am an employee of the State of Nevada, Department of Business and Industry,
Division of Mortgage Lending, and that on May 5, 2009, I deposited in the U.S. mail, postage
prepaid via First Class Mail and Certified Return Receipt Requested, a true and correct copy of
the foregoing, ORDER TO CEASE AND DESIST AND NOTICE OF INTENT TO IMPOSE
FINES AND NOTICE OF RIGHT TO REQUEST HEARING for MDE CAPITAL and JAMES
MASON, addressed as follows:

**MDE Capital
1985 Highway 34, Bldg. A
No A2
Wall, NJ 07719**

Certified Receipt Number: 7006 2760 0000 0875 9667

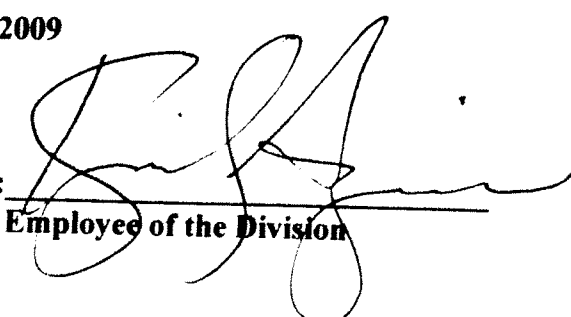
**James Mason
3 Bradford Terrace
Middletown, NJ 07748**

Certified Receipt Number: 7006 2760 0000 0875 9674

DATED this 4th day of May, 2009

By:

Employee of the Division



CERTIFICATE OF SERVICE

I certify that I am an employee of the State of Nevada, Department of Business and Industry, Division of Mortgage Lending, and that on June 3, 2009, I deposited in the U.S. mail, postage prepaid via First Class Mail and Certified Return Receipt Requested, a true and correct copy of the foregoing, FINAL ORDER TO CEASE AND DESIST AND IMPOSING FINE for MDE CAPITAL & JAMES MASON, addressed as follows:

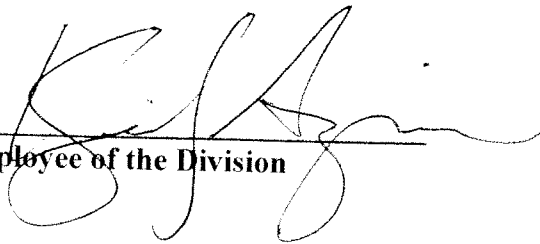
MDE Capital
1985 Highway 34, Bldg. A
No. A2
Wall, NJ 07719

Certified Receipt Number: 7006 2760 0000 0875 9742

James Mason
3 Bradford Terrace
Middleton, NJ 07748

Certified Receipt Number: 7006 2760 0000 0875 9711

DATED this 2nd day of June, 2009

By: 
Employee of the Division